IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

COMPANY APPLICATION No. 87 of 1999

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

CENTRAL BANK OF INDIA - Applicant(s)
Versus
O.L. OF GUJARAT MINISTEEL LTD. & 3 - Respondent(s)

==========

Appearance :

MR SS PANESAR for Applicant(s) : 1,
OFFICIAL LIQUIDATOR for Respondent(s) : 1,
MR JS YADAV for Respondent(s) : 1,
NOTICE NOT RECD BACK for Respondent(s) : 2,
MR RD DAVE for Respondent(s) : 3 - 4.
MR HS MUNSHAW for Respondent(s) : 3,

==========

CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 13/03/2007

ORAL JUDGMENT

1. Present Judges Summons has been taken out by the

applicant-Central Bank of India for various reliefs in terms of Para A to C. So far as the prayer in terms of Para-A is concerned, it is submitted that the GSFC and GIIC have already lodged their claims before the Official Liquidator. Therefore, the said prayer would not survive.

2. Other prayers were for an appropriate order, directing the Official Liquidator to scrutinize the claims of the Secured Creditors and the workers and thereafter to make necessary payment prorata to each of the Secured Creditors inclusive of the applicant-Central Bank of India. Another prayer was to direct the Official Liquidator to pay prorata claims, which are proved by the Secured Creditors and to recover such amount from such of the Secured Creditors as are over paid to the such Secured Creditors, taking into consideration the payment of Rs.35 lakhs made to each of the Secured Creditors under earlier order.

3. The Official Liquidator has submitted his report dated 29th November 2005 pointing out that pursuant to the various orders passed by this Court, a total sum

of Rs.3,31,02,715/- has been paid to the Central Bank of India; a total sum of Rs.34,02,715/- has been paid to the GSFC; a total sum of Rs.84,02,715/- has been paid to the GIIC and a total sum of Rs.81,11,698/- has been paid to the workers. Thus, in all Rs.5,30,10,860/- has been paid to the Secured Creditors as well as the workers. It appears from the record that the Official Liquidator has earlier submitted his report in the present proceedings and has pointed out that the Central Bank of India and the GSFC have been paid more than their dues. It was however, submitted that some amount was recovered by the Official Liquidator from the GSFC. Considering the said report, the learned Singal Judge of this Court passed following order on 29.07.2003:

> *"The learned advocate Mr.Panesar is not present even on the second call.*
>
> *On perusal of the affidavit made by the Official Liquidator, it appears that the applicant-Central Bank of India and the Gujarat State Financial Corporation have been paid more than their dues. Some amount has been recovered by the Official Liquidator from the GSFC however, specific figures have not come on the record. The Official Liquidator to take steps to recover the excess payment made to the applicant-Central*

Bank of India and the GSFC. The Official Liquidator shall also file a report bringing out the precise details with respect to each of the payments. The orders of the Company Court under which the disbursement has been made to the various creditors and he workmen shall also be placed on the records of the matter.

S.O. to 18th August 2003”.

4. Apropos the order passed by this Court dated 29.07.2003, the Official Liquidator has by communication dated 14th August 2003, called upon the Central Bank of India and the GSFC to deposit with the Official Liquidator the excess amount of Rs.1,10,07,715/- by the Central Bank of India and Rs.24,25,368/- by the GSFC. It appears from the said communication and the report dated 29th November 2005 that the said excess amount is on the basis of the verification report submitted by the Chartered Accountants. Shri Soparkar, learned Senior Advocate appearing on behalf of the Central Bank of India has, while disputing the verification report submitted by the Chartered Accountants, submitted that in fact, no excess amount is paid to the Central Bank of India. Considering the report dated 29.11.2005, it appears

that no full particulars are given on what basis it is alleged that the excess amount has been paid.

5. Under the circumstances, without expressing any opinion on merits, the Official Liquidator is directed to file a detailed fresh report pointing out the excess amount paid if any to the Central Bank of India and the GSFC and the basis of that calculation and with a prayer to direct the Central Bank of India, GSFC and/or other Secured Creditors to deposit with the Official Liquidator the said excess amount, alleged to have been paid in excess to the Central Bank of India and the GSFC. The said exercise to be completed and the report to be submitted by the Official Liquidator within a period of one week from today.

6. With this direction, present application is disposed of. No costs.

[M.R. SHAH, J.]

hiren